

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

OA

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/299,388 04/27/99 FOTLAND

R 99.01

EXAMINER

HM22/0525
HAYES SOLOWAY HENNESSEY GROSSMAN & HAGE
175 CANAL STREET
MANCHESTER NH 03101-2335

BAWA, R

ART UNIT	PAPER NUMBER
1619	13

DATE MAILED:

05/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/299,388	Applicant(s) Fotland
	Examiner Mr. Raj Bawa	Art Unit 1619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Feb 27, 2001

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-11, 14-30, and 32-73 is/are pending in the application.

4a) Of the above, claim(s) 38-47, 72, and 73 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-11, 14-30, 32-37, and 48-71 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). _____

16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) Other: _____

Art Unit: 1619

Detailed Action

- (1) Cancellation of all non-elected claims is requested in order to enhance prosecution.
- (2) The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
- (3) The art rejection has been withdrawn.
- (4) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11, 14-30, 32-37 and 48-71 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(i) The phrase "of sufficient magnitude" is vague and indefinite because it is relative. Furthermore, the specification does not define the phrase nor would it be apparent to one of ordinary skill in the art. As a result, the metes and bounds of the patent protection desired would be unascertainable. Similarly, the phrases "relatively higher velocity"; "substantially different"; "substantially all"; "sufficient magnitude"; and "predetermined" are indefinite.

(ii) The phrase "another location" is indefinite in the context recited because one of ordinary skill would be unable to gauge the "location" in light of the specification. Specify the location. Similarly, "over a period of time" and "said period of time" are vague and indefinite.

(iii) Claim 68 is confusing.

Art Unit: 1619

In view of the above statements, it is the Examiner's position that the claims do not meet the threshold requirement of clarity and are not in compliance for definiteness of 35 U.S.C. 112, second paragraph. Note that definiteness of the claims is important to allow others who wish to enter the marketplace to ascertain the boundaries of protection that are provided by the claims (*Ex parte Kristensen 10 USPQ2d 1701, 1703*).

(5) Please provide the basis for the amendments to claims 1 and 48 in the original specification (as filed).

(6) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Raj Bawa whose telephone number is (703) -308-2423. The examiner can normally be reached on Tuesday through Friday from 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diana Dudash, can be reached on (703) -308-2328. The fax phone number for the organization where this application or proceeding is assigned is (703) -305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) -308-1235.

RB/Bawa



RAJ BAWA, Ph.D.
PRIMARY EXAMINER